

**Before the
Federal Communication Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Sandwich Isles Communications Inc.)	CC Docket No. 96-45
)	
Petition for Waiver of the Designation of)	
“Study Area” Contained in Part 36,)	
Appendix-Glossary and Sections 36.611,)	
And 69.2(hh) of the Commission’s Rules)	

**Reply Comments In Support Of The Petition For Waiver Filed By
Sandwich Isles Communications Inc.**

**By:
Fred Williamson and Associates, Inc. (“FW&A”)**

Reply Comments

FW&A is a consulting firm located in Tulsa, Oklahoma that represents small rural Incumbent Local Exchange Carriers (ILECs) that operate in Kansas and Oklahoma. FW&A is participating in this proceeding because of the negative public interest consequences that will occur if the Commission does not grant the petition sought by Sandwich Isles Communications, Inc. (Sandwich Isles).

In its comments in this proceeding, FW&A urged the Commission to grant, on an expedited basis, the petition and related waivers requested by Sandwich Isles. Such an Order by the Commission is clearly in the public interest, is in the interest of the native Hawaiians that live in the Hawaiian Home Lands (HHL) and will allow the fulfillment of the universal service requirements of Section 254 of the Act. Failure by the Commission to grant the petition and waivers sought by Sandwich Isles, would cause severe economic harm to (a) Sandwich Isles by eliminating most of its access and universal service support revenues, which could put loans relying on those revenues at risk, and to (b) Customers in the HHL, because rates for these customers would need to be increased to unaffordable levels to attempt to replace the lost revenues.

At odds with the public interest and the facts presented by Sandwich Isles in its Petition, Hawaiian Telecom Mergersub, Inc. (Hawaiian Telecom) urges caution and delay in reaching a disposition of this proceeding. As discussed below, Hawaiian Telecom's arguments in support of caution and delay are without merit.

A. *Hawaiian Telecom claims incorrectly that the areas subject to this proceeding are unclear.*

Attachments to the Sandwich Isles petition clearly and without any ambiguity show the areas where Sandwich has been granted an exclusive license by the Department of Hawaiian Homelands (DHHL) and that are the subject of the petition.

B. *Hawaiian Telecom requests that the Commission consider whether granting the petition could undermine the purpose of the study area boundary freeze or have an adverse impact on the federal high cost fund.*

These considerations by the Commission need not result in delay in the Commission granting Sandwich Isles Petition on an expedited basis. The study area freeze will not be undermined by granting the Sandwich Isles petition because of the unique circumstances under which Sandwich Isles began providing service to the HHL areas:

- Sandwich Isles was granted an exclusive license granted by the DHHL, and thus is recognized as the incumbent provider in these areas by the local regulatory authority.
- Prior to its grant of a license by the DHHL, inadequate service or no telecommunications service at all had been previously been provided to the residents of the HHL areas.

Similarly, the facts provided by Sandwich Isles in its petition demonstrate that there will not be an adverse impact on the federal high cost fund. Sandwich Isles universal service funding will be less than four-tenths of one-percent of the fund based on first quarter of 2005 projections.

C. *Hawaiian Telecom questions whether there is justification for providing support to Sandwich Isles when the incumbent is ready, willing and able to provide service.* Actions by the provider of service prior to the grant of an exclusive license to Sandwich

Isles in the HHL service area make it clear that that provider was not acting as an incumbent universal service provider in these areas, and was apparently not ready, willing, nor able to provide service at just, reasonable and affordable rate levels upon request by customers living in the HHL areas. Previously, the incumbent provider in other Hawaiian Island service areas (a) Conditioned their willingness to provide service to the HHL areas in their local tariff based on the economics of building facilities, (b) Provided largely multi-party service when service was provided to HHL areas, and (c) Often required large contributions in aid of construction from HHL customers. The DHHL correctly decided that such service was not in the public interest (and is at odds with Section 254 of the Act) and licensed Sandwich Isles to exclusively provide service, as the incumbent telephone company, in all of the HHL areas.

D. *Hawaiian Telecom questions whether Sandwich Isles is using the high-cost support it receives to provide universal services.*

Financial evidence that Sandwich Isles is using support funds to maintain and provide universal services to the residents is provided by Sandwich Isles in its petition. However, the best evidence is provided by the DHHL itself when it stated that prior to issuing the license to Sandwich Isles, there were many persons (beneficiaries) living on the Hawaiian home lands (HHL) "...that did not have phone service due to the high cost either they or DHHL would have to pay to install the infrastructure. Today these beneficiaries enjoy the same service that is available in urban areas."¹ Since it was granted a license by the DHHL, Sandwich Isles has invested large amounts of capital, constructed a state of the art network and extended service to new subscribers and communities, many of which did not previously have service. Sandwich Isles plans to provide local service and high

¹ Petition of Sandwich Isles in CC Docket No. 96-45 dated December 27, 2004, Appendix D.

speed internet service to all HHL communities and to link all of the communities together.² These Sandwich Isles' construction and service plans are what Section 254 of the Act contemplated and are in the public interest. Sandwich Isles is providing (a) Quality service at just, reasonable and affordable rates, (b) Access to advanced services, and (c) Access to basic and advanced services that are comparable to those available in urban areas. The modern communications infrastructure being deployed by Sandwich Isles will aid in the economic development of the rural HHL service area and will help realize the goal of providing an opportunity for native Hawaiians to establish a homeland. Without the substantial investment of Sandwich Isles, these Act requirements and public interest benefits would not be met in the HHL service area.

E. *Hawaiian Telecom questions whether the DHHL issued an exclusive license to Sandwich Isles.*

In its petition, Sandwich Isles has clearly established that it was granted an exclusive license by the DHHL on May 9, 1995 and is therefore recognized as the incumbent provider in the HHL by the DHHL.

The issues raised by Hawaiian Telecom demonstrate its "limited familiarity with the facts"³ and provide no basis for the Commission to delay granting the Sandwich Isles petition. Based on the facts presented by the Sandwich Isles in its petition and because it is clearly in the public interest to grant the petition, FW&A urges the Commission to quickly grant the Sandwich Isles petition and related waivers.

² Petition of Sandwich Isles in CC Docket No. 96-45 dated December 27, 2004, pages 19 and 20.

³ Comments of Hawaiian Telecom dated February 8, 2005 in CC Docket No. 96-45, page ii.

Respectfully submitted by,

Paul L. Cooper
Director of Operations, Fred Williamson & Associates, Inc.
2921 East 91st Street, Suite 200
Tulsa, OK. 74137-3355
Telephone: (918) 298-1618